

Mental Health Law Briefing

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Obligations on Social Services to assess Patients

One of the lesser known amendments to the Mental Health Act brought into force by the Mental Health Act 2007 are the amendments to section 13 and the obligations on Social Services to make arrangements for patients within their area.

The law prior to the 2007 Act was that it was the obligation of the Local Social Services Authority ("LSSA") in which the patient found himself to make the necessary arrangements for an ASW to be available. Therefore, if a patient was placed in hospital by an authority away from his home area under section 2, but then needed to be assessed for section 3, it would be the local LSSA (local to the hospital) who would be responsible for arranging for an ASW to do this.

The position is however going to change with the introduction of the Mental Health Act 2007. Section 13 of the Act is amended so that in future if an LSSA makes provision for a patient to be placed in hospital under section 2 but then later when he needs to be placed on section 3 he is out of their area, they nevertheless retain responsibility to make the necessary arrangements. This will either mean that they will have to supply the ASW (now to be an AMHP) or they will have to make arrangements with the LSSA in the area of the hospital for them to supply the AMHP (possibly even charging the home LSSA for doing this).

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Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

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